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Tenth report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 2107 (2013)

I. Introduction

1. The present report is submitted pursuant to paragraph 4 of Security Council resolution 2107 (2103) and covers developments pertaining to the issues of missing Kuwaiti and third-country nationals and missing Kuwaiti property, including the national archives, since the issuance of my previous report, dated 28 January 2016 (S/2016/87).

2. On 26 March, I visited Iraq and held discussions with the Prime Minister, Haider al-Abadi; the President, Fuad Masum; the Speaker of the Council of Representatives, Salim al-Jubouri; and the Minister for Foreign Affairs, Ibrahim al-Jaafari. I encouraged the Iraqi authorities to take every possible step to achieve tangible progress concerning the issue of missing Kuwaiti persons and property.

3. On 6 April, my Special Representative for Iraq paid an official visit to Kuwait and met with the acting Prime Minister and Minister for Foreign Affairs, Sheikh Sabah al-Khaled al-Hamad al-Sabah, who underscored the continued support and assistance provided by Kuwait for the efforts of the Government of Iraq on national reconciliation and reforms, as well as for its fight against the Islamic State in Iraq and the Levant. Sheikh Sabah al-Khaled al-Hamad al-Sabah noted the prolonged lack of progress on the file of missing Kuwaiti persons and property and advocated a redoubling of efforts, assisted by the United Nations Assistance Mission for Iraq (UNAMI). My Special Representative reaffirmed the commitment of the United Nations to a resolution of the file. The next day, in Baghdad, my Special Representative conveyed a message from the Government of Kuwait urging progress on the file of missing Kuwaiti persons and property to Mr. Al-Jaafari, as well as to the Chief of Staff of the Office of the Prime Minister of Iraq, Mahdi al-Alak. Mr. Al-Jaafari acknowledged the improved relations between the two countries and reaffirmed the readiness of Iraq to cooperate with Kuwait on all pending issues.

4. On 6 April, my Deputy Special Representative met with the Undersecretary for Legal Affairs and Multilateral Relations of the Ministry of Foreign Affairs of Iraq, Omar Barzanji, and noted that UNAMI was making every effort to ensure the continuation of the strong relations between Iraq and Kuwait.

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II. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals, or their remains

5. UNAMI participated in an observer capacity in the ninety-second session of the Technical Subcommittee of the tripartite mechanism, held in Kuwait on 20 January. Reaffirming its commitment to the file, the Iraqi delegation officially disclosed that the chairmanship of the file had been transferred to the Ministry of Foreign Affairs of Iraq and that the Ministry of Defence of Iraq would assume responsibility for its technical aspects. The delegation also emphasized the proven importance of the public information campaign entitled "Call for Witnesses" in encouraging witnesses to come forward, especially in the light of new witness leads, and indicated that it was exploring the possibility of publishing announcements on satellite television channels to reach a wider Iraqi audience. The International Committee of the Red Cross (ICRC) informed the session that its researcher had started work on an in-depth scientific review of all information and past efforts, as agreed upon at the 41st meeting of the Tripartite Commission, held in Geneva on 15 October 2015. In that regard, Kuwait had already handed over a summary of available information to ICRC. Other members of the Technical Subcommittee had been encouraged to do the same. The Kuwaiti delegation underlined that combining methods, such as maintaining close contact with witnesses, considering innovative technology suitable for excavation work and probing, as well as the in-depth scientific review, would increase the chances of success. Given the importance of the Al-Khamisiyah site in Dhi Qar governorate in Iraq as a potential burial site, the members agreed to review all the work carried out so far and also to carry out needed field visits to ascertain facts on the ground, so as to reach a common understanding on the progress of excavations.

6. In carrying out his responsibilities under Security Council resolution 2107 (2013), my Deputy Special Representative for Political Affairs met with the Deputy Head of the Legal Department of the Ministry of Foreign Affairs of Iraq, Salwan Rasheed, on 1 February. My Deputy Special Representative welcomed the decision of the Government of Iraq to transfer the file to the Ministries of Foreign Affairs and Defence and stressed the importance of swiftly completing the transition to ensure the continuation and sustainability of the ongoing work. Mr. Rasheed noted that the decision to transfer all staff who had worked on the file to the Ministry of Defence would allow expertise to be retained, and provided the assurance that the Government of Iraq would continue to make every effort to achieve progress. The transition was completed on 1 March.

7. Subsequently, on 13 March, ministerial order No. 254 was issued, providing for the establishment of a subcommittee to follow up on the tripartite mechanism. The subcommittee is headed by the General Secretary of the Office of the General Counsel of the Ministry of Defence, General Hazem Qassem Majeed, who also serves as the head of the Iraqi delegation to the Technical Subcommittee. In addition, the subcommittee includes three members and a forensic expert.

8. On 16 March, an excavation mission was deployed by the Ministry of Defence of Iraq at the Radwaniyah site in Baghdad governorate, on the basis of information provided by a witness. At the request of ICRC, the activities were placed on hold in order to further discuss optimization of the excavation and ensure adherence to recognized protocols. During the ninety-third session of the Technical Subcommittee, held in Kuwait on 23 March, in which UNAMI also participated in

an observer capacity, the Kuwaiti delegation suggested that the witness in question should be present during the excavation. The proposal was well received by the Iraqi delegation.

9. On 21 March, a field mission to the area along the border between Kuwait and Saudi Arabia was conducted with the participation of representatives from Iraq and Kuwait, as well as ICRC. A witness claiming to have knowledge of the burial site accompanied the Iraqi delegation to Kuwait. Unfortunately, despite all the efforts made and the willingness of the witness, the site could not be located. On 22 March, during a meeting of the sub-advisory working group of the Technical Subcommittee attended by UNAMI in an observer capacity, the Iraqi delegation proposed to go through its own archives in an effort to identify the location.

10. At the ninety-third session of the Technical Subcommittee, the Iraqi delegation, led by General Majeed, emphasized the engagement and commitment of the Ministry of Defence of Iraq with respect to the file, given its humanitarian implications. The delegation conveyed a message from the Minister of Defence of Iraq, Khaled al-Obaidi, that the file had been given priority under his leadership and that the Government of Iraq would do its utmost to obtain concrete results. The reinvigorated efforts of Iraq with regard to the file were commended by the Kuwaiti delegation, which welcomed the work undertaken so far and encouraged its continuation. All members agreed that a review should be carried out at the Al-Khamisiyah site in keeping with what had been done previously. The Iraqi delegation highlighted the challenges posed by the size and geography of the site, noting the need to reassess the information gathered as well as its sources. The delegation also reaffirmed its commitment to organizing an exploratory mission to the Al-Khamisiyah site that would include the ICRC forensic expert and experts from the Ministry of Defence of Iraq in the forthcoming period.

11. Also during the session, members reviewed a number of witnesses who had been engaged to assist in identifying potential burial sites. The Iraqi delegation indicated that the Ministry of Defence would follow up with the witnesses, in coordination with other relevant government entities, to gather additional information that would enable the mechanism to achieve more tangible results. As for the "Call for Witnesses" campaign, the delegation confirmed that the Government of Iraq would publish announcements every three months as from the date of the ninety-second session of the Technical Subcommittee (20 January). The Ministry of Defence would support that measure by sharing the phone number of its Human Rights Directorate, as well as by using the media outlets of the Ministry for all its public announcements. Members of the mechanism were also informed that the in-depth scientific review had progressed to the data collection phase of the research. The ICRC researcher had carried out preliminary visits to Kuwait's National Committee for Missing Persons and Prisoners of War Affairs and the Ministry of Defence of Iraq, with both sides affirming their cooperation as well as unimpeded access to the available archives.

12. On 3 April, my Deputy Special Representative met with the Head of the ICRC delegation in Baghdad, Katharina Ritz, to discuss the way forward on the file. On 4 April, my Deputy Special Representative discussed major developments with respect to the missing Kuwaiti persons file with General Majeed. The General outlined the activities undertaken so far by the Ministry of Defence, including following up with witnesses and developing a plan of action for 2016, and provided

assurances of the dedication of the Government of Iraq to the file. My Deputy Special Representative reaffirmed the importance of the issue from both a humanitarian and a political perspective, emphasizing that achieving progress on the file would contribute to further strengthening of the relations between Iraq and Kuwait.

13. During a meeting with my Special Representative held in Kuwait on 6 April, the Chair, Ibrahim al-Shaheen, and other members of the National Committee for Missing Persons and Prisoners of War Affairs welcomed the recent steps taken by the Government of Iraq in transferring the responsibility for the technical aspects of the file to the Ministry of Defence. Mr. Al-Shaheen reaffirmed the importance of reaching out to potential witnesses, both within and outside Iraq, in an effort to obtain more credible information, as well as to finalize the 2016 plan of action. My Special Representative agreed that continuity and long-term commitment were needed to move the file forward and expressed the readiness of UNAMI to assist the Government of Iraq in following up with the witnesses.

III. Recent activities with regard to the return of Kuwaiti property

14. The reporting period saw no forward movement with regard to the return of Kuwaiti property, including the reconvening the Joint Property Committee, which has not met since June 2014. In his meeting with my Deputy Special Representative, Mr. Rasheed confirmed that the file remained with the Ministry of Foreign Affairs and that new efforts would be made to reinvigorate the search. He also welcomed any suggestions and recommendations from the partners that could yield results.

15. On 6 April, Mr. Barzanji took note of the proposal of my Deputy Special Representative to search the archives of the Iraqi ministries in an effort to locate Kuwaiti property, including the national archives.

IV. Observations

16. I welcome the strong bilateral relations between Iraq and Kuwait. In particular, I praise the continued support of the Government of Kuwait for Iraq in its efforts to achieve stability, demonstrating solidarity in these trying times. I encourage the two countries to collaborate closely through the tripartite mechanism on the file of missing Kuwaiti persons and third-country nationals to finally achieve further concrete results with regard to this humanitarian issue.

17. I urge the Government of Iraq to bring about visible results as soon as possible on the missing Kuwaiti persons file. I am encouraged by the commitment of the Minister of Defence to the file, as evidenced by recent activities undertaken since the transition, and call upon the Government to finalize the 2016 plan of action and share it with the members of the tripartite mechanism at their next meeting, as agreed.

18. I applaud the perseverance of the members of the tripartite mechanism and its Chair, ICRC, in continuing to work together year after year in an effort to locate the remains of the missing Kuwaiti and third-country nationals and to finally bring closure to their families. I welcome the advancement of work on the in-depth

scientific review, and I commend both Iraq and Kuwait for guaranteeing access to their respective archives. I also welcome the agreements reached at the most recent meeting of the Technical Subcommittee to review all the work done at the Al-Khamisiyah site and to continue reaching out to witnesses in an effort to obtain more detailed information and identify potential burial sites. Despite the nature of the challenge, I remain hopeful that this comprehensive and holistic approach will move the file forward.

19. In the light of the reinvigorated efforts on the missing Kuwaiti persons file, I call on the Government of Iraq to ensure more efficient and effective means to address the current stalemate with respect to the missing Kuwaiti property, including the national archives. I strongly encourage the Governments of Iraq and Kuwait to reconvene the Joint Property Committee every six months, as agreed.

20. I underline the commitment of UNAMI, my Special Representative and my Deputy Special Representative for Political Affairs to continue to promote, support and facilitate the efforts of the Government of Iraq to return to Kuwait all missing Kuwaiti and third-country nationals or their remains, in addition to returning Kuwaiti property, including the national archives.